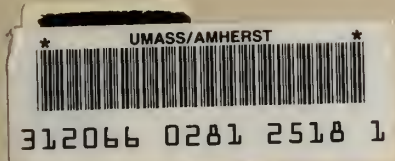


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# CITIZEN'S GUIDE TO DRAFTING LEGISLATION

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GOVERNMENT DOCUMENTS  
COLLECTION

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*The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good: give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.*

Massachusetts Constitution, A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts, Part the First, Article XIX (emphasis added).

## **INTRODUCTION: THE CITIZEN AS LAWMAKER**

Among Americans, only Massachusetts citizens can file bills directly in their state legislature. While other Americans can put initiatives and referendums on their state ballots -- with great effort -- only Massachusetts citizens can be their own lawmakers on all matters, large and small.

The practice is known as free petition, and is guaranteed by the Massachusetts Constitution. The constitutions of 42 states guarantee the right of petition, but only Massachusetts continues to implement the right as it was intended two centuries ago.

This guide is not an official legislative drafting manual, but is intended to encourage free petition by informing citizens how to exercise it.

## DOES A LAW ALREADY EXIST?

"There ought to be a law," you might say -- without knowing that there's one on the books that does what you want.

Before drafting a bill -- which is a proposed statute -- make sure that you're not duplicating (or contradicting) an existing statute.

**General Laws and Special Acts.** In Massachusetts, statutes are known as "acts." There are two kinds of acts: General Laws and Special Acts. Although the two overlap somewhat, Special Acts generally apply only to particular area or subdivision of the state, a particular person or corporation, or to a specific period of time.

A Special Act could grant a pension to a particular person, exempt a town from a General Law, or create a special commission. General Laws are permanent and apply to the whole state or state government.

**To find out if there's a General Law.** Go to the State Library (in the State House, Room 341), your local library, local law school, or local courthouse library, and ask to see the Massachusetts General Laws. (Note that not all law school libraries or courthouse libraries are open to the public.)

You will see at least one of three versions. One is published by the Lawyers Cooperative Publishing Company. It's called the black set, because of the color of the covers. Another version, by West Publishing Company, is called the green set, also because of its covers. Both are published commercially. Neither are the official version.

The black set is sometimes called the Annotated Laws of Massachusetts, or ALM. The green set is sometimes called the General Laws of Massachusetts Annotated, or MGLA. Annotations are notes after statutes, which can tell you when the statute was last amended, other statutes that are related, court cases that have interpreted the statute, and other information that is often helpful.

The official version, or edition, is published by the Commonwealth of Massachusetts and has paperback covers. The color of the covers changes from year to year.

Use the official edition when it is available *to draft legislation*. It is often easier to use the black or green sets, which are annotated, *to research* existing legislation

Check the index under all entries possibly related to your concern. For example, you won't find "car" in the indexes to the green set or the official edition. You will, however, find "motor vehicle."

Some people prefer the black set's index. All volumes of the black set and some volumes of the green set have their own sub-indexes for chapters contained in those volumes. Check the sub-indexes. Also check the list of sections at the start of each chapter; you can use them as a table of contents for the chapters.

Indexes can be baffling and seemingly incomplete. So if an index lists a provision related to one you're looking for, find the provision in the General Laws, and check a few sections before and after it. As a last resort, call one of your legislators. They should have access to a computerized index of the General Laws by calling the House or Senate Counsel. Or visit the State Library, or call 617-727-2590, and ask the reference librarians to check the computerized legislative data base.

**Making sure you are up to date in the black or green sets.** After finding the relevant provisions of the General Laws in the black or green sets, also check the pocket part to the volume you are using to see if the relevant sections have been amended. (The pocket part is the supplement slipped inside the rear cover of the volume.) Then ask the librarian for advance sheets, which are the most recent amendments to the General Laws passed during the year. You must check all three -- the General Laws volume of the black or green sets, the pocket parts, and the advance sheets -- to make sure that you are looking at an act as it reads now.

Then you have one last step to make sure that an act hasn't been amended since the advance sheets were published: visit the State Library (in the State House, Room 341) or call 617-727-2590, and ask the reference librarians to check the computerized legislative database.

**Making sure you are up to date in the official edition.** After finding the relevant provisions of the General Laws in the official edition, check the annual supplements. In an even-numbered year, you should find one annual supplement, from the previous year. In an odd-numbered year, you will find two or no annual supplements, depending on how recently the official edition was published. If the official edition was recently published, you will find no annual supplements, because the volumes are up to date. If the newest version of the official edition has not yet been published, you will find two annual supplements, one from the previous year, and one from the year before the previous year. Check the annual supplements to see if the relevant sections have been amended.

After you check the annual supplements, check the monthly cumulative pamphlet to see if the relevant sections have been amended.

The monthly cumulative pamphlet does not list sections that have been amended in the past two months or so. That means that you have one last step to make sure that the version of an act is up to date: visit the State Library (in the State House, Room 341) or call it at 617-727-2590, and ask the reference librarians to check the computerized legislative data base.

**To find out if there is a Special Act.** If you are interested in filing a Special Act, you have several ways to find out if one is in effect. None of them are completely accurate,



however. You should do all or at least three of the following:

- Check the computerized databases of Special Acts. The Office of the House Counsel and the Office of the Senate Counsel maintain separate but similar databases. You can access the databases through the two offices, respectively, or the State Library, which has access to both databases.

- Check the filing card index maintained by the Office of the House Counsel (Room 139 of the State House), which has not been completely superseded by the computerized database.

- Check the filing card index maintained by the Office of the Senate Counsel (Room 200 of the State House), which has not been completely superseded by the computerized database.

- Check the index to the black set. The black set indexes the most important Special Acts, which it places in a separate volume.

- Check the index to the green set. The green set indexes only the most important Special Acts, which it places in appendixes in the relevant volumes of the General Laws.

- If you think that a Special Act was enacted in a particular year, check the index to the Acts and Resolves of Massachusetts for that year.

- Call the legal office of the relevant municipality or state agency, and ask if a Special Act exists in the area of concern to you.

You can find the text of a Special Act in the Acts and Resolves of Massachusetts for the year it was enacted. A public library or law library should have a set of the Acts and Resolves. The texts of the most important Special Acts are also in the black and green sets.

To find out if a Special Act has been amended since it was first enacted, check Shepard's Massachusetts Citations to the General Laws of Massachusetts. You should be able to find a set in a law library. If you are unfamiliar with using Shepard's, ask a librarian for assistance.

## IS THERE A BILL ALREADY?

Now you might say, "There ought to be a bill."

But again, there might be one already. Before you spend time drafting a bill, find out if someone has already done so by checking bill indexes.

Subject indexes for bills filed in the current legislative year are available in the House Clerk's Office (Room 145 of the State House), the Senate Clerk's Office (Room 335 of the State House), and the State Library (in the State House, Room 341). Your legislators should have access to a computerized bill index for the current year.

Subject indexes for bills filed in the past few legislative years are available in the State Library. For legislative years more than a few years ago, check the indexes to the bound volumes of the House Journals and Senate Journals.

Once you've found bill numbers from particular years in the indexes, get the bills themselves. You may get bills filed in the current legislative year from the Legislative Documents Division (Room 428 of the State House) and the State Library. You may get bills from past years in the State Library.

You'll notice that the heading of a bill reads something like "By Mr. Cohen of Newton, petition of David B. Cohen relative to...." That means that Rep. Cohen of Newton filed his own bill. (If he filed the bill at the request of a constituent, the heading would read, "By Mr. Cohen of Newton, petition of Eve Smith relative to....").

If the legislator who previously filed the bill is still in office, ask the legislator if he or she intends to refile the bill.

If so, you're set. If not, take the bill and ask *your* legislator to file it. In either case, the bill you like will be filed and considered by the Legislature.

## WHERE TO AMEND THE ACTS

A General Law is codified -- or organized by subject matter -- into the existing General Laws. If you want to draft a bill to amend the General Laws, you first have to determine where the General Laws need to be amended.

The General Laws are made up of chapters, ranging from 1 to 282.

The General Laws, however, do not necessarily have 282 chapters at any one time. There are two reasons:

(1) New chapters are inserted into the General Laws to be near related chapters, but are designated by both numerals and letters, so that the rest of the chapters don't have to be renumbered. For example, after chapter 151 comes chapter 151A, chapter 151B, up to chapter 151E.

(2) Once a chapter is repealed, the number is not used again. For example, the last remaining sections of chapter 24 were repealed in 1953. Chapter 24 has been vacant since then. It will remain vacant so that any stray references in the statutes to chapter 24, which have not been repealed, will not refer unintentionally to new material.

Not all chapters related by subject are near each other numerically, and not all subjects are contained in a single chapter. For example, most statutes on motor vehicles are in chapter 90. Chapter 16, however, creates the Registry of Motor Vehicles, which enforces much of chapter 90. Still other chapters contain acts on motor vehicles.

Chapters are divided into numerical sections. Sections are designated by the symbol "§" in the black and green sets. (In the official edition "25A:9" means chapter 25A, section 9.) If a new section is inserted into a chapter, it might be designated by both numerals and letters, so that the sections don't have to be renumbered. So you might find in a chapter a section 1, a section 2, a section 2A, a section 2B, a section 2C, a section 3, and so on. The numerals of repealed sections are not used again. If section 4 has been repealed, you may not create a new section 4.

Sections can be divided into subsections, which are designated by lower case letters. Sections can also be divided into paragraphs, which look like paragraphs in any other text. Paragraphs should be designated by letter or numeral. (Subsection designations and paragraphs are sometimes removed as the bill approaches its final passage.)

The text may refer to other provisions of a section as clauses, subsections, paragraphs, etc.

To determine the best place to amend the General Laws, repeat the process you used to find out whether a General Law already exists in the area of concern to you: check the indexes



to the General Laws and look through the relevant chapters themselves.

Be sure to check the annual supplements and cumulative monthly pamphlets (for the official edition) or the pocket parts and advance sheets (for the black or green sets). Here's why: Let's say you decide that a new section should precede section 26 of a certain chapter. You check the volume of the General Laws and see that section 25A precedes section 26. You consider creating a new section 25B. But first check the cumulative monthly pamphlet or the pocket part and advance sheets; there may already be a section 25B and even a section 25C. In that case, you would create a new section 25D.

If the bill you want to file will be a Special Act, you do not have to worry where it will go in the statute books. Special Acts are organized chronologically -- in the order in which they pass -- not by subject matter.

## TOPS

After deciding where you want to change the General Laws, or Acts and Resolves, these are the various ways to do so:

- *adding* new material, such as sentences, paragraphs, or subsections at the end of a section; or inserting a section before the last section of a chapter; or adding a chapter;
- inserting new material, such as words, sentences, or paragraphs *before* the end of a section, or inserting a section before the last section of a chapter;
- deleting, known as "striking out" existing material, such as words or sentences smaller than a whole section;
- repealing an entire existing section or chapter; or
- a combination of these. Striking existing material and inserting new material is known as "revising."

The part of a bill that gives instructions to change the General Laws, or Acts and Resolves, is known as a top. If you are *creating* a new Special Act, there is nothing to amend and there is no top. But a *change* in an existing Special Act or General Law has to specify where the change is being made. And a *new* General Law has to specify where in the General Laws it will be added. Tops specify where the changes and additions are to be made.

Here's an example of a top to insert material in a Special Act:

The first paragraph of section 1 of chapter 88 of the acts of 1982 is hereby amended by inserting after the word "board," in line 7, the following words:- or any successor agency.

Here's an example of a top to insert material in the General Laws:

The first paragraph of section 73 of chapter 175 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the second sentence the following sentence:-  
The....etc.

Here's an example of a top to strike material:

Section 73 of chapter 175 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 7, the word "agent."

Here's an example of a top to strike out existing material and insert material, known as a revision:

Section 73 of chapter 175 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the words, in line 10, "fifty nor more than five hundred" and inserting in place thereof the words:- two hundred or more than one thousand.

Here's an example of a top to repeal a Special Act:

Chapter fourteen of the acts of nineteen hundred and seventy is hereby repealed.

Here's an example of a top to repeal material from the General Laws:

Chapter two hundred and sixty of the General Laws is hereby repealed.

Numerals in tops are in figures rather than spelled out. There are two exceptions: (1) Ordinal numbers are spelled out. For example, "the first sentence," "the last paragraph," "the fifth clause." (2) References to chapters or sections being repealed are spelled out. Write, "Section three of chapter two of the General Laws is hereby repealed." Don't write, "Section 3 of chapter 2 of the General Laws is hereby repealed."

In tops, be as specific as possible in identifying what existing material is to be changed or where new material is to be put. Refer to line numbers; for example, "line 7, as appearing in the 1992 Official Edition." (Only the official edition has line numbers. Make sure you specify the year of the official edition you are using; it should be the most recent official edition.)

Refer to, for example, "the first clause"; "the last paragraph"; "the sentence reading, 'The director shall report annually'"; "subsection c"; or "the penultimate sentence" (meaning, second-to-last).

Referring to provisions by ordinal number (first, second, penultimate, last, etc.) again requires that you have checked whether the relevant General Laws have been amended recently. Here's why:

Let's say you decide to amend the last paragraph of a certain section that you find in a volume of the green set. If you check the advance sheets, you might find that another paragraph has been added to the end of that section. The amendment turned the original last paragraph into the current second-to-last paragraph. If you call the State Library, you might find that still another paragraph has been added to the end of the section in the last month. If you hadn't checked the advance sheets and called the State Library, you would have amended the wrong paragraph.

Notice several things about tops:

- The words "General Laws" are capitalized.

- The words "Official Edition" are capitalized.
- The word "acts" is not capitalized.
- Parts of acts, such as "sentence," "section," and "chapter" are not capitalized.
- The identification of parts of statutes goes from the smallest part to the largest: "the third paragraph of section 19 of chapter 8 of the General Laws."
- Material to be added or inserted is preceded by a colon and a dash.
- Material to be added or inserted is followed by a period.
- Words, phrases or sentences to be *stricken* are put in quotation marks. Words, phrases, or sentences to be *added* or *inserted* are *not* put in quotation marks.

For example:

...by striking the word "fifty" and inserting in place thereof the word:- sixty.

A bill may have more than one top. In the following example, both SECTION 1 and SECTION 2 are tops. (Section 1 is not a top.)

SECTION 1. Section sixteen of chapter twenty-three of the General Laws is hereby repealed.

SECTION 2. The General Laws are hereby amended by inserting after chapter 23C the following new chapter:-

#### CHAPTER 23D

Section 1. There shall be in the department of industrial accidents an industrial accidents board.

Notice that designations of sections of the bill are capitalized and followed by a period. Most sections of a bill will have a top instructing which part of the General Laws should be changed and how.

In the above example, "SECTION 2" identifies a part of the bill. The designation makes discussing the bill easier. If the bill is enacted into law, however, the words "SECTION 2" will not appear in the General Laws.

Sections of a *bill* may amend or create sections of the General Laws or Special Acts. Sections of the General Laws or Special Acts are in lower case and are italicized or underlined. They are also followed by a period.



In the above example, the words "Section 1" identify a part of the General Laws. If the bill is enacted into law, the designation "Section 1" will appear in the General Laws.

Indent sections of a bill and sections of an act. Notice that in the above example, both SECTION 2 and Section 1 are indented.

As a general rule, revise a provision if you want to change it. That is, strike the existing provision and insert a new one. For example, if you want to add words in four separate places in a paragraph, strike the entire existing paragraph and insert a new one as rewritten. If you want to make any changes in a section, strike it and insert a new section.

## THE BODY OF THE BILL

Before you draft the body of the bill -- the text that will be added to the General Laws, or the Acts and Resolves, themselves -- look through either of them to get a sense of the phrases, style, and structure of a Massachusetts act. If you find an act or part of an act that is comparable to the bill you want to draft, incorporate it into your bill, changing it where appropriate. That saves you work, and makes your bill more compatible with the style of Massachusetts acts.

If you use either the black or green sets, you'll notice that sections are titled. Remember that neither the black nor green set is an official publication. The section titles are added by the commercial publishers, not the Commonwealth of Massachusetts, and are not part of the acts. You do not have to, and should not draft titles for sections of acts that your bill creates.

You should notice some several things in the acts:

- Words are generally not capitalized. Titles, such as "administrative judge" and "commissioner" are not capitalized. Names of most state agencies are not capitalized, although names of all state authorities are capitalized. Hence, "aeronautics commission," but "Massachusetts Bay Transportation Authority." When in doubt, refer to the act creating the agency or authority. The names of federal agencies are capitalized. Names of people and places are capitalized. Hence, "Brighton," "the General Edward Lawrence Logan Airport," "Massachusetts aeronautics commission." The words "commonwealth" and "county" are not capitalized. "General Laws" and "General Fund" are capitalized. References to "sections," "chapters," "acts," etc. are not capitalized.

- The phrase "of the General Laws" should not appear in the General Laws itself as a reference to a specific provision.

For example:

SECTION 1. Chapter 12A of the General Laws is hereby amended by inserting after section 18 the following section:-

Section 18A. Individuals and associations may undertake projects under this section or section nineteen for the....

Notice that the *top* of the bill (SECTION 1 in the above example) contains the phrase "of the General Laws." But when the body of the bill (Section 18A in the above example) mentions a section or chapter, it is understood that it refers to the General Laws. So the phrase "of the General Laws" is not used in the *body* of a bill.

Also notice in the above example that the phrase "this section or section nineteen" is not followed by a chapter reference. If enacted, the body of the bill will become part of chapter 12A, and it will be understood that "this section or section nineteen" refers to chapter 12A.

A chapter number should be used only when referring to a different chapter. For example, if chapter 12A contains a reference to section 19 of chapter 13, then it must read, "section nineteen of chapter thirteen."

- Numerals are generally spelled out. Chapter and section numbers are spelled out. Exceptions are formulas and schedules containing numbers, and the metes and bounds designating parcels of land.

- Percentages are spelled out with "per cent" as two words. Write "ten per cent." Don't write, "10%," "10 per cent," or "ten percent."

- Money figures, except budgetary figures, are spelled out. Write, "one hundred and fifty thousand six hundred and thirty-three dollars and fifty-two cents." Write, "one thousand six hundred dollars." Don't write, "sixteen hundred dollars" or "\$1600."

- Dates are spelled out. Write, "May third, nineteen hundred and ninety-four."

- Times are spelled out. Write, "twelve o'clock noon," and "twelve o'clock midnight." Write, "five-thirty o'clock ante meridiem." Don't write, "5:30 a.m." Write, "eleven-fifteen o'clock post meridiem." Don't write, "11:15 p.m."

- Ages are spelled out and use the phrase "of age." Write, "thirteen years of age." Don't write, "13 years old."

- Fractions are spelled out and hyphenated. Write, "two-thirds." Don't write, "2/3."

Here are more substantive matters of style:

- Provisions requiring an action use "shall." Write, "The commissioner shall report...." Don't write, "The commissioner must report..." or "The commissioner is required to report..." or "The commissioner is hereby directed to report..." or "It is the duty of the commissioner to report...."

- Provisions prohibiting an action begin with "No," followed by a noun and then "shall." Write, "No person shall..." or "No farmer shall..." or "No corporation shall...." Don't write, "A person shall not..." or "A person is prohibited from..." or "It shall be illegal to...."

- Provisions permitting an action use "may." Write, "A person may file a claim within thirty days." Don't write, "A person is allowed to file a claim..." or "A person is empowered to file a claim..." or "A person is hereby authorized to file a claim..." or "It shall be lawful for a person to file a claim...."

- Provisions specifying punishments usually begin with "Whoever," or "Any," followed

by a noun. For example, "Whoever violates the provisions of this chapter shall be fined...." "Any corporation found in contempt of court shall forfeit...." "Any landlord who violates this section may be held ineligible...." (Note that the words "person" and "whoever" include corporations, societies, associations, and partnerships. Don't write, "Any person or corporation violating this chapter....")

- Statutes are written in the third person. Write, "No person shall operate a motor vehicle when...." Don't write, "You shall not operate a motor vehicle...."

- The phrase "and/or" is avoided. "Use "...and...or both." Write, "Whoever violates this section is subject to fines of up to one hundred dollars and imprisonment of up to one year or both." Don't write, "...fines of up to one hundred dollars and/or imprisonment..."

- Exceptions can be made by ending a provision with a semicolon, followed with the words "provided, however that...." For example: "The insurer shall pay the costs to the employee; provided, however, that no attorney's fees shall be assessed to the insurer." Subsequent exceptions can be made by ending a provision with a semicolon and following it with the words "provided further that...."

- Exceptions can be made to acts without specifying which acts, and without amending them through tops, by using a "notwithstanding" clause at the beginning of a provision. For example: "Notwithstanding the provisions of any general or special law to the contrary, no employee of the department shall make available to the public any records of the proceedings." Notwithstanding clauses should be used sparingly. When used, they should refer to specific chapters or sections if possible. For example: "Notwithstanding any provision of chapter one hundred fifty-two to the contrary...."

- Words or phrases should be defined if they are not meant to be construed according to common usage, or if they otherwise need definition. For an example of the format of a section defining words and phrases, see section 1 of chapter 90. Be sure to specify to which section or chapter a definition applies.

- Preambles to and statements of intent within acts are avoided.

- Severability clauses (e.g., "If any provision of this act is found to be unlawful or unconstitutional, the remainder shall remain in effect") are unnecessary. Chapter 4, section 6, clause 11 provides for severability; i.e., that unconstitutional and unlawful provisions can be severed from an act, the remainder of which will still stand.

Not all acts conform to the previous matters of style, but try to adhere to them. Here are other tips:

- Try to draft your bill in the active voice, not the passive. Write, "The bureau shall prepare the annual budget." Generally avoid sentences like, "The budget shall be prepared by



the bureau." A bill should be in the active voice for two reasons: (1) The active voice is easier to read. (2) The active voice can make it clearer to whom a provision applies. For example, the passive-voice sentence, "No information from the application shall be released," does not specify who is prohibited from releasing information. The active-voice sentence, "No employee of the department shall release information..." specifies whom the prohibition covers.

Here are two tipoffs to the active voice: (1) Use of the word "by." For example: "The budget shall be prepared by the bureau." (2) Absence of a subject from the sentence. The sentence, "No information from the application shall be released," has an object ("information from the application") and a verb ("released"), but no subject (the person prohibited from releasing).

- When the word "town" appears in the General Laws, it means "city" too. Write, "No town shall purchase...." Don't write, "No city or town shall purchase...."

- The singular includes the plural and vice versa. That is "bank" means "banks"; "banks" means "bank"; and so forth. Don't write, "bank or banks." Don't write, "bank(s)."

- The masculine includes the feminine and neuter. "He" means "he," "she," "it," or any combination. "His" means "his," "hers," "its," or any combination. Avoid "he/she" or "he or she" or "his or her." If you want to avoid using "he" when your bill applies to men and women, you can often repeat a noun rather than using a pronoun. For example, if you don't want to write, "When a patient becomes insolvent, he may..." you can write, "When a patient becomes insolvent, the patient may..." Another possible way to avoid using the word "his" is to drop it altogether. The phrase, "A tenant may withhold his rent" reads as well, if not better, when changed to "A tenant may withhold rent." Another potential solution is using the plural. Using the plural turns "he" into "they," and "his" into "their."

- Avoid using synonyms for "the," such as "such" and "said." Write, "Within thirty days of receiving an application for a permit, the registry shall process the application." Don't write, "...such application," or "...said application," or "...the aforesaid application," or "the aforementioned application."

## AVOID GOBBLEDYGOOK

Avoid unnecessary wordy and legalistic expressions. This is a suggestion, not a requirement.

<i>Avoid</i>	<i>Use</i>
prior to	before
for the duration of	during
during the course of	during
subsequent to	after
at the time	when
at such time as	when
during such time as	during <i>or</i> while
until such time as	until
unless and until	unless <i>or</i> until
in cases in which	when
in cases of	when <i>or</i> where
in case	if
in the event that	if
whenever	when <i>or</i> if
whosoever	whoever
wheresoever	wherever
whatsoever	whatever
in order to	to
forthwith	immediately
give consideration to	consider
give recognition to	recognize
have knowledge of	know
have need of	need
make application	apply
make payment	pay
make provision for	provide
null and void	null
any and all	any <i>or</i> all
each and all	each <i>or</i> all
each and every	each <i>or</i> every
for the reason that	because
full force and effect	force <i>or</i> effect
sole and exclusive	exclusive

## TITLING BILLS

In general, give your bill a title that is broad. It should not mislead or editorialize.

Don't worry about capitalization in titles because all letters are capitalized. Titles have periods at the end.

All bills start with "An Act." Most bills start with "An Act relative to."

The words "relative to" are followed by an noun, not a present participle, describing the proposal. For example, write, "An Act relative to the salary of the district attorney of Barnstable." Don't write, "An Act relative to increasing the salary of the district attorney of Barnstable."

When the words "relative to" are *not* used, "An Act" is followed by a present participle, not an infinitive. For example, write, "An Act increasing the salaries of assistant district attorneys." Don't write, "An Act to increase the salaries of assistant district attorneys."

## EMERGENCY PREAMBLES

Unless specified otherwise, acts do not take effect immediately upon passage.

Acts take effect 30 days after passage if they do one of the following:

- relate to religion, religious practice, or religious institutions;
- relate to the appointment, qualification, tenure, removal, or compensation of judges;
- relate to the powers, creation, or abolition of courts;
- relate to a particular municipality, political division, district, region, or locality;
- appropriate money for the ordinary expenses of the state, its agencies, and institutions.

If any part of an act does one of the previous things, the whole act takes effect 30 days after passage, unless it specifies otherwise.

Other acts take effect 90 days after passage, unless they specify otherwise.

The way to specify that a 30-day act takes effect before 30 days is to add a section, without a top, at the end of the body of the bill. The section should read something like, "This act shall take effect upon its passage," or "This act shall take effect upon [date and year]."

This kind of section must sometimes be more specific. For example, an act relative to wrongful death suits might state that it shall take effect on the following January 1. But the act should specify whether it applies to accidents occurring after January 1 that caused wrongful deaths, or wrongful deaths occurring after January 1, even if the accident occurred before then.

The way to specify that a 90-day act takes effect before 90 days is an emergency preamble. An emergency preamble, known as an E.P. for short, appears between the title of a bill and its first top.

This is the format:

Whereas, The deferred operation of this act would tend to defeat its purpose, which is (1) to (2) immediately (3), therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public (4).

Put the purpose of the bill in spaces (2) or (3) above. You can use the bill's title, or a shortened or modified version of it.



If the purpose in the preamble describes only part of the bill, the part that must be enacted immediately and not the whole bill, insert " , in part," into space (1).

Choose one of the following to insert in space (4): "convenience," "safety," "health," or "peace." Most E.P.s use "convenience."

Delete the gaps in the E.P. that you do not fill in. For example, if you don't insert " , in part," don't leave a gap in space (1).

In summary, to make a 90-day act take effect before 90 days, add an emergency preamble, but not a last section directing that it take effect before 90 days. (If a 90-day act has a last section directing that it take effect before 90 days, but not an E.P., it will take effect in 90 days retroactive to the time specified in the last section.)

To make a 30-day act take effect before 30 days, add a last section directing that it take effect on a specific date, but don't add an emergency preamble.

## **STUCK?**

If your bill is complicated, you can ask your Representative or Senator for assistance.

Your legislators can answer your questions and even draft your bill. If they have many other bills to draft and file, they can take your proposal for a bill and ask on your behalf that the House Counsel or Senate Counsel draft your bill.

## **FILING YOUR BILL**

Any person, organization, corporation, or combination of them can file a bill. A legislator must sign the bill before it can be filed. According to tradition, Representatives and Senators generally sign and file bills on behalf of their constituents who request them to do so.

When the upcoming legislative year is even-numbered, the filing deadline is the first Wednesday in November at 5:00 p.m. When the upcoming legislative year is odd-numbered, the filing deadline is the first Wednesday in December at 5:00 p.m.

Present your bill to your Representative or Senator well before the deadline to give either of them time to prepare the necessary papers and file the bill on time. A month before deadline should be adequate.

Although most citizens rely on their legislators to fill out the necessary papers to accompany a bill, you can do it yourself if you want.

**Filing a bill in the House of Representatives.** Go to the House Clerk's Office (Room 145 of the State House). Get an act form and a petition for each bill you want to file. An act form is also called an act paper. A petition is also called a jacket.

Both the form and the petition are white and consist of a single sheet of paper folded over. The act form reads, "The Commonwealth of Massachusetts" in Old English type at the top of the front page. The petition reads at the top of the front page, "To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court Assembled." (The official name of the Massachusetts Legislature is the "General Court.")

**Filling out act forms.** At the top of the forms, following, "IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY-" spell out in all capital letters the last digit of the upcoming legislative year, not the current one.

If your bill is a refile (a duplicate bill from the current or a previous year), write the bill number and the last year it was filed in pencil in the upper left corner of the act form.

If your bill has an emergency preamble, it goes after the title. On the act form, skip a line after the title. Line up all the preamble's lines under the typed lines of the title. Single space.

If your bill doesn't fit on the first page of the form, finish typing it, double spaced, on additional sheets of blank white 8½" x 11" paper. Number the additional pages at the top and insert them into the form.

If your bill includes excerpts from an act, you do not have to retype them. You can cut and paste. That is, your bill can intersperse both text that has been typed and text that has been

photocopied from an act. Eliminate line numbers from the left margin of the text photocopied from an act. The Office of the House Counsel recommends cutting and pasting to avoid errors that can happen during retyping.

Leave the back of the form blank.

**Filling out act forms.** Following "AN ACT," type in all capital letters the title of your bill. If necessary, use more than one line and single space the lines. Start second and subsequent lines of titles under the words you typed after "AN ACT," not under the words "AN ACT" themselves.

Set your left margin to the left of "SECTION 1" so that "SECTION 1" will be indented. Type the body of your bill immediately following "SECTION 1" on the same line. Double space subsequent lines.

**Filling out a petition.** On the front, do not fill in the blank following "The undersigned citizens of."

On the front, immediately following the words "petition for the passage of the accompanying bill or resolve, and/or for legislation," type the title of the bill minus the words "An Act." Single space. Use lower-case letters. Put a period at the end.

If your Representative has agreed to sponsor your bill, not simply file it for you upon your request, he or she will sign the petition on the front where indicated. Following the signature, your Representative will put his or her address or legislative district.

If your Representative signs, after his or her signature, you and any other petitioners should sign and put your addresses. Corporations or groups filing bills should include the name of a contact person, such as an officer, so that notice of the bill's public hearing can be sent to him or her.

On the back of the petition, your Representative must sign on the blank line following "Rep." If the Representative has not agreed to sponsor the bill, but is only filing it by request, he or she will write the words "by request" following the signature.

Leave the rest of the petition blank. Insert the act form into the petition.

Have your Representative file the completed bill with the House Clerk. The Clerk will complete the act form and petition.

**Filing a bill in the Senate.** Preparing a bill for filing in the Senate is similar. Go to the Senate Clerk's Office (Room 335 of the State House) and get a form and a petition for each bill you want to file. Senate forms and petitions are identical to ones from the House, except that they are blue. The top of a Senate form also has a place to indicate that the bill is a refile,



so it is not necessary to write that in the upper left corner.

Fill out Senate forms and petitions as you fill out House forms and petitions, with these exceptions:

- Senate bills cannot be cut-and-pasted. They must be typed originals.
- On the back of Senate petitions, the Senator's name should be typed, not signed, following the word "Senator." (Leave the line for the Senator's district blank.)
- The Senator's signature and district go on the front of the petition under the double horizontal line. If the bill is being filed at a constituent's request, type the words "by request" after the signature.

## THE AUTHOR

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